

Docket No. 503.35255V15
Serial No. 10/600,573
October 19, 2005

REMARKS

Applicants have amended their claims in light of the objection to claim 1 as set forth in Item 3 on page 3 of the Office Action mailed July 19, 2005. Specifically, Applicants have amended claim 1, at line 1, to substitute –members– for “member”. In view of this amendment of claim 1, the required correction of claim 1 has been made.

The obviousness-type and provisional obviousness-type double patenting rejections set forth in Items 5, 6, 7 and 8, on pages 3-6 of the Office Action mailed July 29, 2005, are noted. Also to be noted is the statement by the Examiner in Item 4 on page 3 of this Office Action mailed July 19, 2005, that a timely filed Terminal Disclaimer may be used to overcome double patenting rejections.

In view of the foregoing, submitted concurrently herewith is a Terminal Disclaimer for the above-identified application, satisfying requirements of 37 CFR 1.321(c) in connection with each of U.S. Patent No. 6,581,819; No. 6,946,206; any U.S. Patent issuing from U.S. Patent Application No. 10/600,615, filed June 23, 2003; and any U.S. Patent issuing from U.S. Patent Application No. 10/600,607, filed June 23, 2003. In this regard, note that U.S. Patent No. 6,946,206 issued from Application No. 10/600,610, and thus the enclosed Terminal Disclaimer in connection with Patent No. 6,946,206 overcomes the provisional obviousness-type double patenting rejection set forth in Item 7 on page 5 of the Office Action mailed July 19, 2005.

It is noted that this concurrently filed Terminal Disclaimer disclaims all that portion of the term of any patent subsequent to the expiration date of the full statutory term of U.S. Patent No. 6,581,819, issued June 24, 2003. However, noting that each of the application issuing as No. 6,946,206, Application No. 10/600,615

Docket No. 503.35255V15
Serial No. 10/600,573
October 19, 2005

and Application No. 10/600,607, claims priority under 35 USC 120 based upon the application issuing as No. 6,581,819, the disclaimer of patent term with respect to U.S. Patent No. 6,581,819 satisfies requirements of 37 CFR 1.321(c) with respect to any necessary disclaimer of patent term in connection with the other patents/patent applications applied by the Examiner in the obviousness-type double patenting rejections in Items 6-8 of the Office Action mailed July 19, 2005.

In view of the present filing of the Terminal Disclaimer, it is respectfully submitted that the obviousness-type double patenting rejections set forth in Items 5-8 on pages 3-6 of the Office Action mailed July 19, 2005, are moot.

It is respectfully submitted that the presently submitted Terminal Disclaimer is being filed so as to facilitate proceedings in connection with the above-identified application, in order to achieve earliest possible issuance of a U.S. patent based thereon. The present filing of this Terminal Disclaimer does not constitute agreement with, or an admission as to the propriety of, the obviousness-type double patenting rejections; and does not constitute agreement with, or an admission as to the propriety of, arguments made by the Examiner in connection with the obviousness-type double patenting rejections.

It is acknowledged that the Examiner has applied the teachings of various references in connection with each of the obviousness-type and provisional obviousness-type double patenting rejections. In view of clearly obviating the double patenting rejections by the filing of the enclosed Terminal Disclaimer, it is respectfully submitted that no discussion of the various references applied in the double patenting rejections is necessary.

As indicated on Sheet 1 of 2 of the initialed copy of the "Information Disclosure Statement By Applicant" enclosed with the Office Action mailed July 19,

Docket No. 503.35255V15
Serial No. 10/600,573
October 19, 2005

2005, the Examiner did not consider JP 54-11250, published May 14, 1979.

Enclosed herewith is a copy of JP 54-11250, together with an English translation thereof, and a Form PTO/SB/08A, listing the document. Also enclosed is the fee under 37 CFR 1.17(p), noting that the document and English translation are being submitted after a first Office Action on the merits but before closing prosecution on the merits. As all applicable requirements of 37 CFR 1.97 and 1.98 have been satisfied with present submission of the document and translation, consideration thereof upon further examination of the present application is respectfully requested.

In view of the foregoing comments and amendments, reconsideration and allowance of all claims presently pending in the above-identified application are respectfully requested.

Applicants request any shortage of fees due in connection with the filing of this paper be charged to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (case 503.35255V15), and credit any excess payment of fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

By 
William I. Solomon
Registration No. 28,565

Attachments: Terminal Disclaimer w/copy of Assignment (4 pp.); Form PTO/SB/08A; JP 54-11250 and English translation

WIS/ksh
1300 N. Seventeenth Street
Suite 1800
Arlington, Virginia 22209
Tel: 703-312-6600
Fax: 703-312-6666